

Message

From: Palmer, John [Palmer.John@epa.gov]
Sent: 3/6/2019 10:20:25 PM
To: Weber, Courtney [Weber.Courtney@epa.gov]; Lidgard, Michael [Lidgard.Michael@epa.gov]
Subject: Re: Ecology-EPA CWA 401 process

Courtney, thank you for that clarification regarding

Ex. 5 AC/DP

Ex. 5 AC/DP

Regarding your comment in red below for step 2. From talking to Vince,

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

would serve to

Ex. 5 AC/DP

But, Ecology's letter

That serves multiple purposes: 1)

Ex. 5 AC/DP

John

From: Weber, Courtney
Sent: Wednesday, March 6, 2019 1:07 PM
To: Palmer, John; Lidgard, Michael
Subject: RE: Ecology-EPA CWA 401 process

ATTORNEY CLIENT PRIVILEGE
DELIBERATIVE PROCESS

Ex. 5 Attorney Client (AC)

Additional comments are in red below.

From: Palmer, John
Sent: Monday, March 04, 2019 3:49 PM
To: Lidgard, Michael <Lidgard.Michael@epa.gov>
Cc: Weber, Courtney <Weber.Courtney@epa.gov>
Subject: Ecology-EPA CWA 401 process

Hi Mike, here is a write-up of our call today with Ecology (Vince and Elle). Courtney, we would like your thoughts and input and can discuss further. One question we had for you is

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

We were assuming this, and the below process is in part intended to avoid that.

John

Possible Ecology-EPA CWA 401 Process for EPA-issued NPDES Permits in Washington

The objectives of this approach are to provide public transparency, intergovernmental coordination and efficiency, adequate and timely review, and minimize the potential need for EPA to issue a 2nd public notice because Ecology's CWA 401 certification conditions substantially change the draft permit.

1. EPA provides a preliminary draft permit to Ecology and provides 30 days for comments. EPA notes that it is not requesting 401 certification at this time, but plans to do so when it issues the public notice for the draft permit.
2. Ecology provides a comment letter to EPA on the preliminary draft permit. Ecology notes that their comment letter is not a 401 certification.
Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
3. EPA issues a public notice for the draft permit and seeks public comment (30-60 days) and requests CWA 401 certification from Ecology (60 days). EPA includes Ecology's comment letter on the preliminary draft permit as part of the public notice material – I believe that this is what we did for JBLM.
Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
4. Ecology issues a public notice on EPA's request for CWA 401 certification concurrent with EPA's public notice of the draft permit and seeks public comment (20 days).
5. Ecology issues a CWA certification for the draft permit within 60 days of EPA's request.
6. EPA considers public comments, conducts ESA review, incorporates Ecology's CWA 401 Cert. conditions and issues the final permit.